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HAROLD B. WILLEY, C

IN THE

Supreme Court of the United States

OCTOBER TERM, 1954.

No. 720.

ELMER J. SCHNACKENBERG,
Petitioner,

vs.

ROLAND TOWLE,
Respondent.

REPLY TO RESPONDENT'S BRIEF IN OPPOSITION.

GEORGE E. HALE,
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WILSON & MCILVAINE,
Of Counsel.

THE BUNTHORP-WARREN PRINTING COMPANY, CHICAGO

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The sole purpose of this reply is to point out to the Court that the "Statement" appearing on pages 2 and 3 of Respondent's Brief in Opposition is (a) irrelevant and (b) inaccurate.

Employment of petitioner's firm by the Tool and Die Workers Institute had no bearing on the question of the legality of petitioner's acts on behalf of the Norton Company. Likewise the nature and extent of the services performed for the Institute had no bearing on any issue of this case even if such services had been as now contended by Respondent. The trial court was correct in sustaining petitioner's objection to testimony on that subject.

Respondent's statement is inaccurate in numerous instances and goes far outside the record both with regard to the Tool and Die Workers Institute matter, the trial court's ruling on such testimony, and the amount and importance of petitioner's services in the Norton Company case.

If respondent now seeks to support the decision of the Illinois Supreme Court on the theory of fraud or entrapment, he is injecting into the case an issue that was never pleaded and never presented to either the trial court, the Appellate Court or the Supreme Court.

If respondent now contends that fraud or entrapment was the basis of the decision of the Illinois Supreme Court, then he admits that it deprived petitioner of his constitutional right to have the case decided on the issues pleaded. Petitioner never had an opportunity to answer the issue of fraud or entrapment because it never appeared in the case until the decision of the Illinois Supreme Court.

Respectfully submitted,

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May, 1955.